

**NEW
KENTUCKY STATUTES
OF INTEREST TO
LAW ENFORCEMENT
OFFICERS**

Passed by 2005 General Assembly

**Compiled by Staff of
Legal Section
Department of Criminal Justice Training**

2005 New Kentucky Statutes

Additions to existing statutes, and new statutes, are in boldface italics. Deletions to existing statutes are indicated by strike-throughs. When appropriate, parts of the statute unaffected by the change have been excluded from this summary. Such exclusions are indicated by a series of asterisks.

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KRS 15.334 Mandatory training courses for law enforcement students and certified peace officers – Administrative regulations – Annual report

- (1) The Kentucky Law Enforcement Council shall approve mandatory training subjects to be taught to all students attending a law enforcement basic training course that include, but are not limited to:
 - (a) Abuse, neglect, and exploitation of the elderly and other crimes against the elderly, including the use of multidisciplinary teams in the investigation and prosecution of crimes against the elderly;
 - (b) The dynamics of domestic violence, child physical and sexual abuse, and rape; child development; the effects of abuse and crime on adult and child victims, including the impact of abuse and violence on child development; legal remedies for protection; lethality and risk issues; profiles of offenders and offender treatment; model protocols for addressing domestic violence, rape, and child abuse; available community resources and victim services; and reporting requirements. This training shall be developed in consultation with legal, victim services, victim advocacy, and mental health professionals with expertise in domestic violence, child abuse, and rape;
 - (c) Human immunodeficiency virus infection and acquired immunodeficiency virus syndrome; and
 - (d) Identification and investigation of, responding to, and reporting bias-related crime, victimization, or intimidation that is a result of or reasonably related to race, color, religion, sex, or national origin.
- (2) The council shall develop and approve mandatory professional development training courses to be presented to all certified peace officers. A mandatory professional development training course shall be first taken by a certified peace officer in the training year following its approval by the council and biennially thereafter. A certified peace officer shall be required to take these courses no more than two (2) times in eight (8) years.
- (3) The council shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish mandatory basic training and professional development training courses.
- (4) The council shall make an annual report by December 31 each year to the Legislative Research Commission that details the subjects and content of mandatory professional development training courses established during the past year and the subjects under consideration for future mandatory training.

KRS 15.775 Educational programs on investigation and prosecution of crimes against the elderly

- (1) The Prosecutors Advisory Council shall develop in conjunction with the Cabinet for Families and Children, educational programs on the investigation and prosecution of abuse, neglect, and exploitation of the elderly and other crimes against the elderly.
- (2) A program not less than four (4) hours in length shall be made available to each Commonwealth's attorney, county attorney, assistant Commonwealth's attorney, assistant county attorney, Commonwealth's detective, and county detective within six (6) months of the person's initial taking of office or beginning of employment. Successful completion of the program shall be required for each officer specified, except for the elected Commonwealth's attorney and county attorney. The program shall also include the use of a multidisciplinary team in the investigation of crimes specified in subsection (1) of this section.
- (3) Each assistant Commonwealth's attorney, assistant county attorney, Commonwealth's detective, and county detective shall successfully complete a two (2) hour update on the subjects specified in subsection (1) of this section at least once every five (5) years.

KRS 15A.190 Uniform reporting forms to provide statistical information on crimes

- (1) The Justice Cabinet in consultation with the Cabinet for Families and Children, the Kentucky Commission on Women, and any other agency concerned with particular acts of criminal activity, shall design, print, and distribute to all law enforcement agencies in the Commonwealth, a uniform reporting form which provides statistical information relating to the crimes involving domestic violence, child abuse, victimization of the elderly, including but not limited to elder abuse, neglect, and exploitation and other crimes against the elderly, or any other particular area of criminal activity deemed by the secretary of justice to require research as to its frequency,
- (2) The provision of subsection (1) of this section concerning the distribution of forms shall become effective on January 1, 2006.

KRS 61.300 Nonelective peace officer or deputy -- Qualifications

No person shall serve as a deputy sheriff, deputy constable, patrol or other nonelective peace officer, or deputy peace officer, unless:

* * * * *

- (6) He has complied with the provisions of KRS 15.334.

KRS 69.350 Employment of victim advocate

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- (3) Each county attorney who employs an individual to serve as a victim advocate shall develop a written job description which describes the duties of the position and shall ensure the victim advocate completes training relating to the appropriate intervention with crime victims, including victims of domestic violence **and elder abuse, neglect, and exploitation and other crimes against the elderly**. Each victim advocate shall perform those duties necessary to insure compliance with the crime victim's bill of rights contained in KRS 421.500 to 421.530. No victim advocate shall engage in political activities while in the course of performing duties as victim advocate or the practice of law as defined in KRS 524.130. The creation and funding of any new personnel position shall be reviewed and approved by the Prosecutors Advisory Council.

KRS 209.005 Elder Abuse Committee – Membership – Duties – Annual report

- (1) The Cabinet for Families and Children shall create an Elder Abuse Committee to develop a model protocol on elder abuse and neglect in the Commonwealth, that shall be comprised of various ~~state~~ agency representatives ***that include, but are not limited to:***
- (a) The Department for Community Based Services;
 - (b) The Department for Public Health;
 - (c) The Department for Mental Health and Mental Retardation;
 - (d) The Office of Aging Services;
 - (e) The Division of Long Term Care;
 - (f) The Office of the Ombudsman; ~~and~~
 - (g) Area Agencies on Aging;
 - (h) Local and state law enforcement official; and***
 - (i) Prosecutors.***
- (2) The committee shall address issues of prevention, intervention, ***investigation***, and agency coordination of services on a state and local level through interaction with local groups or entities that either directly or indirectly provide services to the elder population, including, but not limited to:
- (a) Senior citizen centers;
 - (b) Local governmental human service groups;
 - (c) The Sanders-Brown Center on Aging at the University of Kentucky;
 - (d) Long Term Care Ombudsmen; and
 - (e) Other organizations or associations dedicated to serving elder citizens and their families in the Commonwealth.
- (3) The committee shall:
- (a) Recommend a model protocol for the joint multidisciplinary investigation of reports of suspected abuse, neglect, or exploitation of the elderly;***

- (b) *Recommend practices to assure timely reporting of referrals of abuse, neglect, or exploitation required under KRS 209.030(12);*
 - (c) Explore the need for a comprehensive statewide resource directory of services for the elderly;
 - (d) ~~(b)~~ Enhance existing public awareness campaigns for elder abuse and neglect; and
 - (e) ~~(c)~~ Provide forums for the exchange of information to educate the elder population and their families on the rights of elders.
- (4) The committee shall produce an annual report of their activities, products, and recommendations for public policy to the Governor and the Legislative Research Commission.

KRS 209.010 Purpose and application of chapter

- (1) The purpose of this chapter is:
 - (a) ~~(1)~~ To provide for the protection of adults who may be suffering from abuse, neglect, or exploitation, and to bring said cases under the purview of the Circuit or District Court;-
 - (b) ~~(2)~~ To provide that any person who becomes aware of such cases shall report them to a representative of the cabinet, thereby causing the protective services of the state to be brought to bear in an effort to protect the health and welfare of these adults in need of protective services and to prevent abuse, neglect, or exploitation; **and**
 - (c) *To promote coordination and efficiency among agencies and entities that have a responsibility to respond to the abuse, neglect, or exploitation of adults.*
- (2) *This chapter shall apply to the protection of adults who are the victims of abuse, neglect, or exploitation inflicted by a person or caretaker. It shall not apply to victims of domestic violence unless the victim is also an adult as defined in KRS 209.020(4).*

KRS 209.020 Definitions for chapter

As used in this chapter, unless the context otherwise requires:
* * * * *

- (4) "Adult" means a person eighteen (18) years of age or older, who, because of mental or physical dysfunctioning, is unable to manage his own resources, carry out the activity of daily living, or protect himself from neglect, **exploitation**, or a hazardous or abusive situation without assistance from others, and who may be in need of protective services;
- (5) "Protective services" means agency services undertaken with or on behalf of an adult in need of protective services who is being abused, neglected, or exploited. These services may include, but are not limited to conducting investigations of complaints of possible abuse, neglect, or exploitation to

ascertain whether or not the situation and condition of the adult in need of protective services warrants further action; social services aimed at preventing and remedying abuse, neglect, and exploitation; and services directed toward seeking legal determination of whether or not the adult in need of protective services has been abused, neglected, or exploited and to ensure that he obtains suitable care in or out of his home

- (6) "Caretaker" means an individual or institution *who has been entrusted with* or who has the responsibility for the care of the adult as a result of family relationship, or who has assumed the responsibility for the care of the adult person voluntarily, or by contract, *employment, legal duty*, or agreement;
- (7) *"Deception" means, but is not limited to:*
 - (a) *Creating or reinforcing a false impression, including a false impression as to law, value, intention, or other state of mind;*
 - (b) *Preventing another from acquiring information that would affect his or her judgment of a transaction; or*
 - (c) *Failing to correct a false impression that the deceiver previously created or reinforced, or that the deceiver knows to be influencing another to whom the person stands in a fiduciary or confidential relationship;*
- (8) "Abuse" means the infliction *of injury, sexual abuse, unreasonable confinement, intimidation, or punishment that results in physical pain or injury, including* mental injury;
- (9) "Exploitation" means *obtaining or using another person's resources, including but not limited to funds, assets, or property, by deception, intimidation, or similar means, with the intent to deprive the person of those resources;*
- (10) "Investigation" shall include, but is not limited to:-
 - (a) A personal interview with the individual reported to be abused, neglected, or exploited. When abuse, or neglect is allegedly the cause of death, a coroner's or doctor's report shall be examined as part of the investigation;
 - (b) *An assessment of individual and environmental risk and safety factors;*
 - (c) *Identification of the perpetrator, if possible; and*
 - (d) *Identification by the Office of Inspector General of instances of failure by an administrator or management personnel of a regulated or licensed facility to adopt or enforce appropriate policies and procedures, if that failure contributed to or caused an adult under the facility's care to be abused, neglected, or exploited;*
- (11) "Emergency" means that an adult is living in conditions which present a substantial risk of death or immediate and serious physical harm to himself or others;
- (12) "Emergency protective services" are protective services furnished an adult in an emergency;
- (13) "Protective placement" means the transfer of an adult from his present living arrangement to another;

- (14) "Court" means the Circuit Court or the District Court if no judge of that Circuit Court is present in the county;
- (15) "**Records**" means the medical, mental, health, and financial records of the adult that are in the possession of any hospital, firm, corporation, or other facility, if necessary to complete the investigation mandated in this chapter. *These records shall not be disclosed for any purpose other than the purpose for which they have been obtained.*
- (16) "Neglect" means a situation in which an adult is unable to perform or obtain for himself the **goods** or services **that** are necessary to maintain his health or welfare, or the deprivation of services by a caretaker **that** necessary to maintain the health and welfare of an adult; **and**
- (17) "**Authorized agency**" means:
 - (a) *The Cabinet for Health Services and the Cabinet for Families and Children;*
 - (b) *A law enforcement agency or the Kentucky State Police;*
 - (c) *The office of a Commonwealth's attorney or county attorney; or*
 - (d) *The appropriate division of the Office of the Attorney General.*

KRS 209.030 Rules and regulations – Reports - Cabinet

- (1) The secretary may *promulgate administrative regulations in accordance with KRS Chapter 13A* to effect the ~~purposes~~ purpose of this chapter. *While the cabinet shall continue to have primary responsibility for investigation and the provision of protective services under this chapter, nothing in this chapter shall restrict the powers of another authorized agency to act under its statutory authority.*
- (2) Any person, including, but not limited to, physician, law enforcement officer, nurse, social worker, cabinet personnel, coroner, medical examiner, alternate care facility employee, or caretaker, having reasonable cause to suspect that an adult has suffered abuse, neglect, or exploitation, shall report or cause reports to be made in accordance with the provisions of this chapter. Death of the adult does not relieve one of the responsibility for reporting the circumstances surrounding the death.
- (3) An oral or written report shall be made immediately to the cabinet upon knowledge of suspected abuse, neglect, or exploitation of an adult.
- (4) Any person making such a report shall provide the following information, if known:
 - (a) The name and address of the adult, or of any other person responsible for his care;
 - (b) The age of the adult;
 - (c) The nature and extent of the abuse, neglect, or exploitation, including any evidence of previous abuse, neglect, or exploitation;
 - (d) The identity of the perpetrator, if known;
 - (e) The identity of the complainant, if possible; and

- (f) Any other information that the person believes might be helpful in establishing the cause of abuse, neglect, or exploitation.
- (5)(4) Upon receipt of the report, the cabinet shall *conduct an initial assessment and* take the following action ~~as soon as practical~~:
 - (a) Notify *within twenty-four (24) hours of the receipt of the report* the appropriate law enforcement agency. *If information is gained through assessment or investigation relating to emergency circumstances or a potential crime, the cabinet shall immediately notify and document notification to the appropriate law enforcement agency;*
 - (b) *Notify each appropriate authorized agency. The cabinet shall develop standardized procedures for notifying each appropriate authorized agency when an investigation begins and when conditions justify notification during the pendency of an investigation;*
 - (c) Initiate an investigation of the complaint; and
 - (d)(e) Make a written report of the initial findings together with a recommendation for further action, if indicated.
- (6) (a) *The cabinet shall, to the extent practicable, coordinate its investigation with the appropriate law enforcement agency and, if indicated, any appropriate authorized agency or agencies.*
 - (b) *The cabinet shall, to the extent practicable, support specialized multidisciplinary teams to investigate reports made under this chapter. This team may include law enforcement officers, social workers, Commonwealth's attorneys and county attorneys, representatives from other authorized agencies, medical professionals, and other related professionals with investigative responsibilities, as necessary.*
- (7) (5) Any representative of the cabinet may enter any health facility or health service licensed by the cabinet at any reasonable time to carry out the cabinet's responsibilities under this chapter. Any representative of the cabinet actively involved in the conduct of an abuse, neglect, or exploitation investigation under this chapter shall also be allowed access to *financial records and* the mental and physical health records of the adult which are in the possession of any ~~individual, hospital, firm, financial institution, corporation,~~ or other facility if necessary to complete the investigation mandated by this chapter. *These records shall not be disclosed for any purpose other than the purpose for which they have been obtained*
- (8) (6) Any representative of the cabinet may with consent of the adult or caretaker enter any private premises where any adult alleged to be abused, neglected, or exploited is found in order to investigate the need for protective services for the purpose of carrying out the provisions of this chapter. If the adult or caretaker does not consent to the investigation, a search warrant may *be issued* ~~issue~~ upon a showing of probable cause that an adult is being abused, neglected, or exploited, to enable a representative of the cabinet to proceed with the investigation.

- (9) ~~(7)~~ If a determination has been made that protective services are necessary when indicated by the investigation, the cabinet shall provide such services within budgetary limitations, except in such cases where an adult chooses to refuse such services.
- (10) ~~(8)~~ In the event the adult elects to accept the protective services to be provided by the cabinet, the caretaker shall not interfere with the cabinet when rendering such services.
- (11) *The cabinet shall consult with local agencies and advocacy groups, including but not limited to long-term care ombudsmen, law enforcement agencies, bankers, attorneys, providers of nonemergency transportation services, and charitable and faith-based organizations, to encourage the sharing of information, provision of training, and promotion of awareness of adult abuse, neglect, and exploitation, crimes against the elderly, and adult protective services.*
- (12) (a) *By November 1 of each year and in accordance with state and federal confidentiality and open records laws, each authorized agency that receives a report of adult abuse, neglect, or exploitation shall submit a written report to the cabinet that provides the current status or disposition of each case referred to that agency by the cabinet under this chapter during the preceding year. The Elder Abuse Committee established in KRS 209.005 may recommend practices and procedures in its model protocol for reporting to the cabinet under this section.*
- (b) *By December 30 of each year, the cabinet shall provide a written report to the Governor and the Legislative Research Commission that summarizes the status of and actions taken on all reports received from authorized agencies and specific departments within the cabinet under this subsection. The cabinet shall identify any report required under paragraph (a) of this subsection that is not received by the cabinet. Identifying information about individuals who are the subject of a report of suspected adult abuse, neglect, or exploitation shall not be included in the report under this paragraph. The report shall also include recommendations, as appropriate, to improve the coordination of investigations and the provision of protective services. The cabinet shall make the report available to community human services organizations and others upon request.*

KRS 209.110 Petition – Guardian ad litem – Summons – Notice – Hearing –
Report to court -- Fee

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- (2) Following the filing of a petition, a summons shall be issued and served with a copy of the petition, and notice of the time, date and location of the hearing to be held on the petition. Service shall be made upon the

adult and his guardian or, if none, his caretaker. Should the adult have no guardian or caretaker, service shall be made upon the adult's guardian ad litem. Notice of the hearing shall be given to the adult's spouse, or, if none, to his adult children or next of kin, unless the court is satisfied that notification would be impractical. Service ***shall not be made upon any person who is believed to have perpetrated the abuse, neglect, or exploitation.*** Service of the petition shall be made at least three (3) calendar days prior to the hearing for emergency protective services.

KRS 209.130 Ex parte order of court – Implementation

- (1) When from an affidavit or sworn testimony of an authorized representative of the cabinet, it appears probable that an adult will suffer immediate and irreparable physical injury or death if protective services are not immediately provided, and it appears that the adult is incapable of giving consent, the court may assume jurisdiction and issue an ex parte order providing that certain specific protective services be provided the adult. The court shall not authorize such protective services except those specifically designed to remove the adult from conditions of immediate and irreparable physical injury or death. A copy of the order shall be served upon the adult and his guardian, or if none, his caretaker. ***Service shall not be made upon the person or caretaker who is believed to have perpetrated the abuse, neglect, or exploitation.***
- (2) To implement an ex parte order, the court may authorize forcible entry of the premises of the adult for the purpose of rendering protective services or transporting the adult to another location for the provision of such services. Authorized forcible entry shall be accomplished by a peace officer accompanied by a representative of the cabinet
- (3) Upon the issuance of an ex parte order, the cabinet must file a petition as soon as possible. A hearing must be held within seventy-two (72) hours, exclusive of Saturdays and Sundays, from the issuance of an ex parte order.

KRS 209.180 Prosecution of adult abuse, neglect, and exploitation

- (1) ***If adequate personnel are available, each Commonwealth's attorney's office and each county attorney's office shall have an attorney trained in adult abuse, neglect, and exploitation.***
- (2) ***Commonwealth's attorneys and county attorneys, or their assistants, shall take an active part in interviewing the adult alleged to have been abused, neglected, or exploited, and shall inform the adult about the proceedings throughout the case.***
- (3) ***If adequate personnel are available, Commonwealth's attorneys and county attorneys shall provide for an arrangement that allows one (1)***

lead prosecutor to handle the case from inception to completion to reduce the number of persons involved with the adult victim.

- (4) Commonwealth's attorneys, county attorneys, cabinet representatives, and other members of multidisciplinary teams shall minimize the involvement of the adult in legal proceedings, avoiding appearances at preliminary hearings, grand jury hearings, and other proceedings when possible.*
- (5) Commonwealth's attorneys, county attorneys, and victim advocates employed by Commonwealth's attorneys or county attorneys shall make appropriate referrals for counseling, private legal services, and other appropriate services to ensure the future protection of the adult when a decision is made not to prosecute the case. The Commonwealth's attorney or county attorney shall explain the decision not to prosecute to the family or guardian, as appropriate, and to the adult victim.*

KRS 209.990 Penalties

- (1) Anyone knowingly or wantonly violating the provisions of KRS 209.030(2) shall be guilty of a Class B misdemeanor as designated in KRS 532.090. Each violation shall constitute a separate offense.
- (2) Any **person** who knowingly abuses or neglects an adult is guilty of a Class C felony.
- (3) Any **person** who wantonly abuses or neglects an adult is guilty of a Class D felony.
- (4) Any **person** who recklessly abuses or neglects an adult is guilty of a Class A misdemeanor.
- (5) Any **person** who knowingly exploits an adult, resulting in a total loss to the adult of more than three hundred dollars (\$300) in financial or other resources, or both, is guilty of a Class C felony.
- (6) Any **person** who wantonly or recklessly exploits an adult, resulting in a total loss to the adult of more than three hundred dollars (\$300) in financial or other resources, or both, is guilty of a Class D felony.
- (7) Any **person** who knowingly, wantonly, or recklessly exploits an adult, resulting in a total loss to the adult of three hundred dollars (\$300) or less in financial or other resources, or both, is guilty of a Class A misdemeanor.

KRS 209A.020 Definitions for chapter

As used in this chapter, unless the context otherwise requires:

- (1) "Secretary" means the secretary of the Cabinet for Families and Children;*
- (2) "Cabinet" means the Cabinet for Families and Children;*
- (3) "Department" means the Department for Community Based Services of the Cabinet for Families and Children;*

- (4) *"Adult" means a person without regard to age who is the victim of abuse or neglect inflicted by a spouse;*
- (5) *"Protective services" means agency services undertaken with or on behalf of an adult in need of protective services who is being abused or neglected. These services may include, but are not limited to conducting investigations of complaints of possible abuse or neglect to ascertain whether or not the situation and condition of the adult in need of protective services warrants further action, including action under KRS Chapter 209, and social services aimed at preventing and remedying abuse or neglect;*
- (6) *"Abuse" means the infliction of injury, unreasonable confinement, intimidation, or punishment resulting in physical harm or pain, including mental injury;*
- (7) *"Investigation" shall include, but is not limited to, a personal interview with the individual reported to be abused or neglected. When abuse or neglect is allegedly the cause of death, a coroner's or doctor's report shall be examined as part of the investigation;*
- (8) *"Records" means the medical or mental health records of the adult that are in the possession of any individual, hospital, firm, corporation, or other facility if necessary to complete the investigation mandated in KRS 209.030(5);*
- (9) *"Neglect" means a situation in which a person deprives his spouse of reasonable services to maintain health and welfare.*
- (10) *"Authorized agency" means:*
 - (a) *The Cabinet for Health Services and the Cabinet for Families and Children;*
 - (b) *A local law enforcement agency or the Kentucky State Police; or*
 - (c) *The office of a Commonwealth's attorney or county attorney.*

KRS 209A.030 Administrative regulations – Reports of abuse or neglect – Cabinet actions – Penalties for failure to report abuse or neglect.

- (1) *The secretary may promulgate administrative regulations in accordance with KRS Chapter 13A to effect the purposes of this chapter. The secretary may offer or cause to be offered protective services for safeguarding the welfare of an adult who has experienced abuse or neglect inflicted or caused by a spouse. While the cabinet shall continue to have primary responsibility for investigation and the provision of protective services under this chapter, nothing in this chapter shall restrict the powers of another authorized agency to act under its statutory authority.*
- (2) *Any person, including but not limited to physician, law enforcement officer, nurse, social worker, cabinet personnel, coroner, medical*

examiner, mental health professional, alternate care facility employee, or caretaker, having reasonable cause to suspect that an adult has suffered abuse or neglect, shall report or cause reports to be made in accordance with the provisions of this chapter. Death of the adult does not relieve one of the responsibility for reporting the circumstances surrounding the death.

- (3) An oral or written report shall be made immediately to the cabinet upon knowledge of suspected abuse or neglect of an adult.*
- (4) Any person making such a report shall provide the following information, if known:*
 - (a) The name and address of the adult;*
 - (b) The age of the adult;*
 - (c) The nature and extent of the abuse or neglect, including any evidence of previous abuse or neglect;*
 - (d) The identity of the perpetrator, if known;*
 - (e) The identity of the complainant, if possible; and*
 - (f) Any other information that the person believes might be helpful in establishing the cause of abuse or neglect.*
- (5) Upon receipt of the report, the cabinet shall take the following action:*
 - (a) Notify the appropriate law enforcement agency, if indicated;*
 - (b) Initiate an investigation of the complaint; and*
 - (c) Make a written report of the initial findings together with a recommendation for further action, if indicated.*
- (6) Any representative of the cabinet may enter any health facility or health service licensed by the cabinet at any reasonable time to carry out the cabinet's responsibilities under this chapter.*
- (7) Any representative of the cabinet actively involved in the conduct of an abuse or neglect investigation under subsection (5) of this section shall also be allowed access to the mental and physical health records of the adult which are in the possession of any individual, hospital, or other facility if necessary to complete the investigation mandated by this section.*
- (8) Any representative of the cabinet may with consent of the adult enter any private premises where any adult alleged to be abused or neglected is found in order to investigate the need for protective services for the purpose of carrying out the provisions of this chapter.*
- (9) If a determination has been made that protective services are necessary when indicated by the investigation, the cabinet shall provide such services within budgetary limitations, except in such cases where an adult chooses to refuse such services.*
- (10) In the event the adult elects to accept the protective services to be provided by the cabinet, no other person shall interfere with the cabinet when rendering such services.*
- (11) Anyone knowingly or wantonly violating the provisions of subsection (2) of this section shall be guilty of a Class B misdemeanor and penalized in*

accordance with KRS 532.090. Each violation shall constitute a separate offense.

KRS 209A.050 Immunity from civil or criminal liability for good faith performance of duties

Anyone acting upon reasonable cause in the making of any report or investigation pursuant to this chapter, including representatives of the cabinet in the reasonable performance of their duties in good faith, and within the scope of their authority, shall have immunity from any civil or criminal liability that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or investigation and such immunity shall apply to those who render protective services in good faith pursuant to the consent of the adult.

KRS 209A .060 Privileged relationships not ground for excluding evidence

Neither the psychiatrist-patient privilege nor the husband-wife privilege shall be a ground for excluding evidence regarding the abuse, neglect, or exploitation of an adult or the cause thereof in any judicial proceeding resulting from a report pursuant to this chapter.

KRS 209A.080 Confidentiality of spousal abuse or neglect investigation information -- Exceptions

All information obtained by the department staff or its delegated representative as a result of an investigation made pursuant to this chapter shall not be divulged to anyone except:

- (1) Persons suspected of abuse or neglect, provided that in such cases names of informants may be withheld, unless ordered by the court;*
- (2) Persons within the department or cabinet with a legitimate interest or responsibility related to the case;*
- (3) Other medical, psychological, social service agency, law enforcement, or other authorized agency that has a legitimate interest in the case;*
- (4) Cases in which a court orders the release of the information; and*
- (5) The alleged abused or neglected person.*

KRS 431.005 Arrest by peace officers – By private persons

A peace officer may make an arrest:

- (3) For purposes of subsection (2) of this section, a "peace officer" is:
- (a) A full-time sworn officer of the Kentucky State Police, a full-time sworn officer of the Kentucky Horse Park, a commissioned full-time state park ranger, a full-time officer of the Division of Law Enforcement within the Department of Fish and Wildlife Resources who is exercising authority under KRS Chapter 235, a full-time city policeman, a full-time county policeman, a full-time university safety and security officer appointed pursuant to KRS 164.950 to 164.970, a full-time city-county policeman, a duly elected sheriff, or a full-time paid deputy sheriff; or
 - (b) A part-time paid law enforcement officer, or a special paid deputy, who has completed a Kentucky law enforcement council approved education and training program referred to in KRS ~~403.784~~ **15.334**. The provisions of this section relating to training shall not apply to a deputy sheriff who is subject to the training requirements specified in KRS 70.263(3).

NOTE: The following KRS sections are repealed:

- 15.331 Basic law enforcement training to include training on bias-related crime.
- 15.333 Educational program concerning HIV and AIDS for law enforcement officers.
- 403.784 Training and continuing education courses for law enforcement officers.

<u>CONTROLLED SUBSTANCES/METHAMPHETAMINE</u>

KRS 218A.010 Definitions for chapter

[NOTE: The following are additions, and other definitions have been renumbered accordingly.]

- (4) "Child" means any person under the age of majority as specified in KRS 2.015.

- (12) "Hazardous chemical substance" includes any chemical substance used or intended for use in the illegal manufacture of a controlled substance as defined in this section or the illegal manufacture of methamphetamine as defined in KRS 218A.1431, which:

- (a) Poses an explosion hazard;
- (b) Poses a fire hazard; or

(c) *Is poisonous or injurious, if handled, swallowed, or inhaled.*

(14) *"Intent to manufacture" means any evidence which demonstrates a person's conscious objective to manufacture a controlled substance or methamphetamine. Such evidence includes, but is not limited to statements, a chemical substance's usage, quantity, manner of storage, or proximity to other chemical substances or equipment used to manufacture a controlled substance or methamphetamine.*

(18) *"Methamphetamine" means any substance that contains any quantity of methamphetamine, or any of its salts, isomers, or salts of isomers.*

(23) *"Physical injury" has the same meaning it has in KRS 500.080.*

(32) *"Serious physical injury" has the same meaning it has in KRS 500.080.*

KRS 218A.015 Additional definitions for chapter

When used in this chapter, the terms "intentionally," "knowingly," "wantonly," and "recklessly," including but not limited to equivalent terms such as "with intent" shall have the same definition and the same principles shall apply to their use as those terms are defined and used in KRS Chapter 501.

KRS 218A.1432 Manufacturing methamphetamine – Penalties

- (1) A person is guilty of manufacturing methamphetamine when he knowingly and unlawfully:
 - (a) Manufactures methamphetamine; or
 - (b) *With intent to manufacture methamphetamine possesses two (2) or more chemicals or two (2) or more items of equipment for the manufacture of methamphetamine.*
- (2) Manufacture of methamphetamine is a Class B felony for the first offense and a Class A felony for a second or subsequent offense.

KRS 218A.1437 Possession of a methamphetamine precursor

- (1) A person is guilty of unlawful possession of a methamphetamine precursor when he or she knowingly and unlawfully possesses a drug product or combination of drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, with the intent to use the drug product or combination of drug products as a precursor to manufacturing methamphetamine or other controlled substance.

- (2) (a) Except as provided in paragraph (b) of this subsection, possession of a drug product or combination of drug products containing more than *nine (9)* grams of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, within any thirty (30) day period shall constitute prima facie evidence of the intent to use the drug product or combination of drug products as a precursor to methamphetamine or other controlled substance.
- (b) The prima facie evidence referred to in paragraph (a) of this subsection shall not apply to the following persons who lawfully possess a drug product or combination of drug products listed in subsection (1) of this section in the course of legitimate business:
1. A retail distributor of drug products or wholesaler of drug products or its agent;
 2. A wholesale drug distributor, or its agent, issued a permit by the Board of Pharmacy;
 3. A pharmacist licensed by the Board of Pharmacy;
 4. A pharmacy permitted by the Board of Pharmacy;
 5. A licensed health care professional possessing the drug products in the course of carrying out his or her profession;
 6. A trained chemist working in a properly equipped research laboratory in an education, government, or corporate setting; or
 7. A common carrier under contract with any of the persons or entities set out in subparagraphs 1. to 6. of this paragraph.
- (3) Unlawful possession of a methamphetamine precursor is a Class D felony for the first offense and a Class C felony for each subsequent offense.

KRS 218A.1438 Distribution of a methamphetamine precursor

- (1) *Notwithstanding KRS 218A.1442, a person is guilty of unlawful distribution of a methamphetamine precursor when he or she knowingly and unlawfully sells, transfers, distributes, dispenses, or possesses with the intent to sell, transfer, distribute, or dispense any drug product or combination of drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or any of their salts, isomers, or salts of isomers, if the person knows that the purchaser intends that the drug product or combination of drug products will be used as a precursor to methamphetamine or other controlled substance, or if the person sells, transfers, distributes, or dispenses the drug product or combination of drug products with reckless disregard as to how the drug product or combination of drug products will be used.*
- (2) *Unlawful distribution of a methamphetamine precursor is a Class D felony for the first offense and a Class C felony for each subsequent offense.*
- (3) *In addition to the criminal penalty specified in subsection (2) of this section, or*

in lieu of the criminal penalty specified in subsection (2) of this section, any person who traffics in or transfers any drug product or combination of drug products specified in subsection (1) of this section intentionally or recklessly with knowledge of or reason to know that the drug product or combination of drug products will be used to illegally manufacture methamphetamine or other controlled substance shall be liable for damages in a civil action for all damages, whether directly or indirectly caused by the sale or trafficking or transfer of the drug product or drug products.

(a) Damages may include, but are not limited to:

- 1. Any and all costs of detecting, investigating, and cleaning up or remediating unlawfully operated laboratories or other facilities for the illegal manufacture of methamphetamine or other controlled substance;*
- 2. Costs of prosecution of criminal cases arising from the illegal sale, transfer, distribution, manufacture, or dispensing of a controlled substance or their precursors;*
- 3. Court costs and reasonable attorney's fees for bringing this civil action;*
- 4. Consequential damages; and*
- 5. Punitive damages.*

(b) A civil action to recover damages against a person or persons violating this section may be brought by the Attorney General, an attorney of the Justice and Public Safety Cabinet, or by any Commonwealth's attorney in whose jurisdiction the defendant may be shown to have committed an act specified in this section.

(c) All moneys collected pursuant to such civil action shall be distributed in the following order:

- 1. Court costs and reasonable attorney's fees for bringing this civil action;*
- 2. The reimbursement of all reasonable costs of detecting, investigating, cleaning up or remediating the laboratory or other facility utilized for manufacture of methamphetamine underlying the present judgment;*
- 3. The reasonable costs of prosecution of criminal cases arising from trafficking in or transfer of a precursor for the illegal manufacture of methamphetamine giving rise to the present judgment; and*
- 4. All remaining moneys shall be distributed to the General Fund.*

KRS 218A.1439 Trafficking in or transferring a dietary supplement

(1) A person is guilty of trafficking in or transferring a dietary supplement, when he or she traffics in or transfers any dietary supplement product containing ephedrine group alkaloids, except as provided in this section.

(2) The prohibition in subsection (1) of this section shall not apply to:

- (a) *A practitioner or pharmacist licensed in this Commonwealth who is practicing within his or her scope of practice and who prescribes or dispenses, or both, dietary supplement products containing ephedrine alkaloids in the course of the treatment of a patient under the direct care of the prescribing practitioner, except that a licensed practitioner or registered pharmacist shall not prescribe or dispense dietary supplement products containing ephedrine group alkaloids for purposes of weight loss, body building, or athletic performance enhancement;*
- (b) *Dietary supplement products containing ephedrine group alkaloids that are sold or distributed directly to a licensed practitioner or registered pharmacist, when the dietary supplement products containing ephedrine group alkaloids are used solely for the purpose of the treatment of patients under the direct care of the practitioner;*
- (c) *Dietary supplement products containing ephedrine group alkaloids that are sold or distributed directly to a licensed practitioner or registered pharmacist for resale to a patient for whom the products have been prescribed under paragraph (a) of this subsection; or*
- (d) *Dietary supplement products containing ephedrine group alkaloids that are not for resale in this Commonwealth and that are sold or distributed directly to businesses not located in this Commonwealth.*
- (3) *Trafficking in or transferring a dietary supplement is:*
 - (a) *For the first offense, a Class A misdemeanor; and*
 - (b) *For a second or subsequent offense, a Class D felony.*

KRS 218A.1441 Controlled substance endangerment to a child in the first degree

- (1) *A person is guilty of controlled substance endangerment to a child in the first degree when he or she knowingly causes or permits a child to be present when any person is illegally manufacturing a controlled substance or methamphetamine or possesses a hazardous chemical substance with intent to illegally manufacture a controlled substance or methamphetamine under circumstances that place a child in danger of serious physical injury or death, if the child dies as a result of the commission of the offense.*
- (2) *Controlled substance endangerment to a child in the first degree is a Class A felony.*

KRS 218A.1442 Controlled substance endangerment to a child in the second degree

- (1) *A person is guilty of controlled substance endangerment to a child in the second degree when he or she knowingly causes or permits a child to be*

present when any person is illegally manufacturing a controlled substance or methamphetamine or possesses a hazardous chemical substance with intent to illegally manufacture a controlled substance or methamphetamine under circumstances that place a child in danger of serious physical injury or death, if the child receives serious physical injury as a result of the commission of the offense.

- (2) *Controlled substance endangerment to a child in the second degree is a Class B felony.*

KRS 218A.1443 Controlled substance endangerment to a child in the third degree

- (1) *A person is guilty of controlled substance endangerment to a child in the third degree when he or she knowingly causes or permits a child to be present when any person is illegally manufacturing a controlled substance or methamphetamine or possesses a hazardous chemical substance with intent to illegally manufacture a controlled substance or methamphetamine under circumstances that place a child in danger of serious physical injury or death, if the child receives physical injury as a result of the commission of the offense.*
- (2) *Controlled substance endangerment to a child in the third degree is a Class C felony.*

KRS 218A.1444 Controlled substance endangerment to a child in the fourth degree

- (1) *A person is guilty of controlled substance endangerment to a child in the fourth degree when he or she knowingly causes or permits a child to be present when any person is illegally manufacturing a controlled substance or methamphetamine or possesses a hazardous chemical substance with intent to illegally manufacture a controlled substance or methamphetamine under circumstances that place a child in danger of serious physical injury or death, if the child is not injured as a result of the commission of the offense.*
- (2) *Controlled substance endangerment to a child in the fourth degree is a Class D felony.*

KRS 218A.1446 Restrictions on purchase of ephedrine, pseudoephedrine, or phenylpropanolamine products

- (1) *Any nonprescription compound, mixture, or preparation containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical*

- isomers shall be dispensed, sold, or distributed only by a registered pharmacist, a pharmacy intern, or a pharmacy technician.*
- (2) *Any person purchasing, receiving, or otherwise acquiring any nonprescription compound, mixture, or preparation containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers shall:*
- (a) *Produce a government issued photo identification showing the date of birth of the person; and*
- (b) *Sign a written log or record showing the:*
- 1. Date of the transaction;*
 - 2. Name, date of birth, and address of the person making the purchase; and*
 - 3. The amount and name of the compound, mixture, or preparation.*
- An electronic record-keeping mechanism may be used in lieu of the written log or record described in paragraph (b) of this subsection, provided the mechanism is approved by the Office of Drug Control Policy.*
- (3) *A log, as described in subsection (2) of this section, shall be kept of each day's transactions. The registered pharmacist, a pharmacy intern, or a pharmacy technician shall initial the entry of each sale in the log, evidencing completion of each transaction. The log shall be:*
- (a) *Kept for a period of two (2) years; and*
- (b) *Subject to random and warrantless inspection by city, county, or state law enforcement officers.*
- (4) (a) *Intentional failure of a registered pharmacist, a pharmacy intern, or a pharmacy technician to make an accurate entry of a sale of a product or failure to maintain the log records as required by this section may subject him or her to a fine of not more than one thousand dollars (\$1,000) for each violation and may be evidence of a violation of KRS 218A.1438.*
- (b) *If evidence exists that the pharmacist's, the pharmacy intern's, or the pharmacist technician's employer fails, neglects, or encourages incorrect entry of information by improper training, lack of supervision or oversight of the maintenance of logs, or other action or inaction, the employer shall also face liability under this section and any other applicable section of this chapter.*
- (c) *It shall be a defense to a violation of this section that the person proves that circumstances beyond the control of the registered pharmacist, pharmacy intern, or pharmacy technician delayed or prevented the making of the record or retention of the record as required by this section. Examples of circumstances beyond the control of the registered pharmacist, pharmacy intern, or pharmacy technician include but are not limited to:*

1. *Fire, natural or manmade disaster, loss of power, and similar events;*
 2. *Robbery, burglary, shoplifting, or other criminal act by a person on the premises;*
 3. *A medical emergency suffered by the registered pharmacist, pharmacy intern, or pharmacy technician, another employee of the establishment, a customer, or any other person on the premises; or*
 4. *Some other circumstance that establishes that an omission was inadvertent.*
- (5) *No person shall purchase, receive, or otherwise acquire any product, mixture, or preparation or combinations of products, mixtures, or preparations containing more than nine (9) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers within any thirty (30) day period provided this limit shall not apply to any quantity of product, mixture or preparation dispensed pursuant to a valid prescription. In addition to the nine (9) gram restriction, no person shall purchase, receive, or otherwise acquire more than three (3) packages of any product, mixture, or preparation containing ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers during each transaction.*
- (6) *A person under eighteen (18) years of age shall not purchase or attempt to purchase any quantity of a ephedrine, pseudoephedrine, or phenylpropanolamine product as described in subsection (1) of this section. No person shall aid or assist a person under eighteen (18) years of age in purchasing any quantity of a ephedrine, pseudoephedrine, or phenylpropanolamine product as described in subsection (1) of this section.*
- (7) *The requirements of this section shall not apply to any compounds, mixtures, or preparation containing ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers which are in liquid, liquid capsule, or gel capsule form or to any compounds, mixtures, or preparations containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts or optical isomers which are deemed to be not subject to abuse upon joint review and agreement of the Office of Drug Control Policy, the Board of Pharmacy, and the Cabinet for Health Services.*
- (8) *The provisions of this section shall not apply to a:*
- (a) *Licensed manufacturer manufacturing and lawfully distributing a product in the channels of commerce;*
 - (b) *Wholesaler lawfully distributing a product in the channels of commerce;*
 - (c) *Licensed pharmacy;*
 - (d) *Health care facility licensed pursuant to KRS Chapter 216B;*

- (e) *Licensed long-term care facility;*
 - (f) *Government-operated health department;*
 - (g) *Physician's office;*
 - (h) *Publicly operated prison, jail, or juvenile correctional facility, or a private adult or juvenile correctional facility under contract with the Commonwealth;*
 - (i) *Public or private educational institution maintaining a health care program; or*
 - (j) *Government-operated or industrial medical facility serving its own employees.*
- (9) *The provisions of this section shall supersede and preempt all local laws, ordinances, and regulations pertaining to the sale of any compounds, mixtures, or preparation containing ephedrine, pseudoephedrine, phenylpropanolamine, their salts or optical isomers, or salts of optical isomers.*

KRS 315.010 Definitions for chapter

As used in this chapter, unless the context requires otherwise:

* * * * *

- (12) *"Incidental" as used in KRS 315.0351(1) means dispensing fewer than twenty-five (25) prescriptions in a calendar month;*

KRS 315.035 Permit required for operation of a pharmacy – Application – Fee – Issuance – Fee for failure to renew – Premises covered by permit – Rules and regulations – Requirements for in-state pharmacy doing business through the Internet

- (1) No person shall operate a pharmacy *within this Commonwealth, physically or by means of the Internet, facsimile, phone, mail, or any other means*, without having first obtained a permit as provided for in KRS Chapter 315. An application for a permit to operate a pharmacy shall be made to the board upon forms provided by it and shall contain such information as the board requires, which may include affirmative evidence of ability to comply with such reasonable standards and rules and regulations as may be prescribed by the board. Each application shall be accompanied by a reasonable permit fee to be set by administrative regulation promulgated by the board pursuant to KRS Chapter 13A, not to exceed two hundred fifty dollars (\$250).

* * * * *

- (7) *Each pharmacy shall comply with KRS 218A.202.*
- (8) *Any pharmacy within the Commonwealth doing business, primarily or exclusively by use of the Internet, shall prior to obtaining a permit, receive and display in every medium in which it advertises itself, a seal of*

approval for the National Association of Boards of Pharmacy certifying that it is a Verified Internet Pharmacy Practice Site (VIPPS). VIPPS certification shall be maintained and remain current.

- (9) *Any pharmacy within the Commonwealth, doing business primarily or exclusively by use of the Internet, shall certify the percentage of its annual business conducted via the Internet and submit such supporting documentation as requested by the board, and in a form or application required by the board, when it applies for permit or renewal.*

KRS 315.0351 Out-of-state pharmacy – Permit – Request for information – Records – Toll-free telephone service – Pharmacist on duty – Requirements for out-of-state pharmacy doing business through the Internet

- (1) Every *person or* pharmacy located outside this Commonwealth which, other than on an incidental basis, does business, *physically or by means of the Internet, facsimile, phone, mail, or any other means, inside* ~~within~~ this Commonwealth within the meaning of KRS Chapter 315, shall hold a current pharmacy permit as provided in KRS 315.035(1) and (4) issued by the Kentucky Board of Pharmacy. The pharmacy shall be designated an "out-of-state pharmacy" and the permit shall be designated an "out-of-state pharmacy permit." The fee for the permit shall not exceed the current in-state pharmacy permit fee as provided under KRS 315.035.

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- (7) Each out-of-state pharmacy shall have a pharmacist in charge who *is licensed to engage in the practice of pharmacy by the Commonwealth* that shall be responsible for compliance by the pharmacy with the provisions of this section.
- (8) *Each out-of-state pharmacy shall comply with the KRS 218A.202.*
- (9) *Any out-of-state pharmacy doing business, primarily or exclusively by use of the Internet, shall prior to obtaining a permit, receive and display in every medium in which it advertises itself, a seal of approval for the National Association of Boards of Pharmacy certifying that it is a Verified Internet Pharmacy Practice Site (VIPPS). VIPPS certification shall be maintained and remain current.*
- (10) *Any out-of-state pharmacy, doing business primarily or exclusively by use of the Internet, shall certify the percentage of its annual business conducted via the Internet and submit such supporting documentation as requested by the board, and in a form or application required by the board, when it applies for permit or renewal.*

KRS 315.235 Attorney General's jurisdiction to investigate and prosecute violators of pharmacy laws

- (1) *The Attorney General has concurrent jurisdiction with the*

Commonwealth's attorneys of this state for the enforcement of the provisions of this chapter.

- (2) The Attorney General may investigate and prosecute a practitioner or any other person who violates the provisions of:
 - (a) This chapter; and*
 - (b) Any other statute if the violation is committed by the practitioner or person in the course of committing a violation described in paragraph (a) of this subsection.**
- (3) When acting pursuant to this section, the Attorney General may commence his investigation and file a criminal action without leave of court, and the Attorney General has exclusive charge of the conduct of the prosecution.*

*KRS 315.320 Illegal operation of an out-of-state pharmacy – Exemption for
lapsed license or permit -- Penalty*

- (1) A person or pharmacy is guilty of a Class C felony if the person or pharmacy, located inside or outside this Commonwealth, is not licensed to engage in the practice of pharmacy and knowingly:
 - (a) Uses or attempts to use the Internet, in whole or in part, to communicate with or obtain information from another person in this Commonwealth; and*
 - (b) Uses or attempts to use such communication or information, in whole, or in part, to:
 - 1. Fill or refill a prescription for a prescription drug for the other person; or*
 - 2. Deliver, cause, allow, or aid in the delivery of a controlled substance, imitation controlled substance, counterfeit substance or prescription drug to the other person.***
- (2) A person or pharmacy is guilty of a Class B felony if the substance or drug dispensed in subsection (1) of this section:
 - (a) Is classified in Schedule I; or*
 - (b) Proximately causes serious physical injury or the death of the intended recipient of the substance or drug or any other person.**
- (3) The court shall not grant probation to or suspend the sentence of a person punished pursuant to subsection (2) of this section.*
- (4) A person who knowingly aids another in any act or transaction that violates the provisions of subsection (1) of this section is guilty of a Class C felony.*
- (5) A person who knowingly aids another in any act or transaction that violates the provisions of subsection (2) of this section is guilty of a Class B felony.*
- (6) A person or pharmacy may be prosecuted, convicted, and punished for a violation of this section whether or not the person is prosecuted,*

convicted, or punished for a violation of any other statute based upon the same act or transaction.

- (7) This section shall not apply to a licensed pharmacist or pharmacy that inadvertently allows its license or permit, issued by a board of pharmacy, to lapse.*

KRS 315.325 Exemption from pharmacy licensing requirements for common carriers transporting drugs

The provisions of KRS 315.320 do not apply to a person who is:

- (1) A common or contract carrier or warehouseman, or any employee thereof, unless the person is acting outside of the usual course of his business or employment or knows or has reasonable cause to believe that the act or transaction is unlawful; or*
- (2) An employee or agent of a pharmacist or pharmacy licensed or permitted pursuant to this chapter and acting in accordance with KRS Chapter 218A, unless the person is acting outside of the usual course of his business or employment or knows or has reasonable cause to believe that the act or transaction is unlawful; or*
- (3) The intended recipient of a substance or drug, unless the intended recipient knows or has reasonable cause to believe that the act or transaction is unlawful.*

KRS 315.330 Seizure and forfeiture of illegal drug shipments

- (1) Any drug which is ordered or shipped in violation of any provision of this chapter or KRS Chapter 218A shall be considered as contraband and may be seized by any peace officer or any employee of the Board of Pharmacy designated to enforce the provisions of this chapter or KRS Chapter 218A.*
- (2) The officer, prior to seizing the drug, shall make a reasonable effort to determine:*
 - (a) The person who ordered the drug;*
 - (b) The pharmacy from which the drug was ordered;*
 - (c) The shipper of the drug;*
 - (d) The intended recipient of the drug; and*
 - (e) Whether or not the shipment was legal.*
- (3) Unless the matter is the subject of a criminal prosecution, if, after thirty (30) days of investigation, the officer seizing the drug cannot adequately determine the information required by subsection (2) of this section, the drug that has been seized shall be considered as abandoned and escheat to the Commonwealth.*
- (4) If a drug seized pursuant to this section is the subject of a criminal investigation, the drug shall be retained as evidence and, if there is a*

conviction of any person or pharmacy relating to the ordering or shipment of the drug, the drug shall be forfeited to the Commonwealth. If the defendant is found not guilty or the charges are dismissed with prejudice, the drug shall be returned to the defendant.

- (5) *Drugs which have been seized and which have been forfeited or abandoned and escheat to the Commonwealth shall be destroyed.*

KRS 315.990 Penalties

- (1) *Except for the provisions of KRS 315.020, any person violating any provision of KRS Chapter 315 shall be fined for each offense not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or imprisoned in the county jail for not more than six (6) months, or both. Each week that any provision of KRS 315.020, 315.030, or 315.035 is violated shall also constitute a separate offense.*

** * * * **

- (5) *For a violation of KRS 315.020, the Board of Pharmacy may, in addition to any other civil or criminal penalty, levy an administrative fine not exceeding one hundred thousand dollars (\$100,000). All such fines shall be deposited to the credit of the Board of Pharmacy in carrying out the provisions of this chapter.*

<u>LICENSE TO CARRY/BY RETIRED AND ACTIVE OFFICERS NATIONWIDE</u>
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KRS 15.383 Marksmanship qualification for certified peace officers

- (1) *In order to maintain his or her certification as a peace officer, each certified peace officer shall annually meet the marksmanship qualification requirement for a retired peace officer as specified in KRS 237.140.*
- (2) *Any law enforcement agency employing a certified peace officer may require the certified peace officer to meet a marksmanship qualification requirement which is in excess of that specified in KRS 237.140. Failure of a certified peace officer to meet the increased marksmanship qualification requirement specified by his or her employing or appointing agency shall not affect the certification of the officer, but may subject the officer to discipline by the agency, including suspension or dismissal of the officer from the agency.*

**KRS 237.110 License to carry concealed weapon – Criteria – Suspension or
revocation – Renewal – Prohibitions – Reciprocity – Reports –
Requirements for training classes**

- (1) The Department of State Police is authorized to issue licenses to carry concealed firearms or other deadly weapons to persons qualified as provided in this section. The Department of State Police or the Administrative Office of the Courts shall conduct a record check, covering all offenses and conditions which are required under 18 U.S.C. sec. 922(g) and this section, in the manner provided by 18 U.S.C. sec. 922(s). Licenses shall be valid throughout the state for a period of five (5) years from the date of issuance, ***but their validity may be extended beyond the five (5) year period as provided in subsection (12) of this section.*** Any person in compliance with the terms of the license may carry a concealed firearm or other deadly weapon or combination of firearms and other deadly weapons on or about his person. The licensee shall carry the license at all times the licensee is carrying a concealed firearm or other deadly weapon and shall display the license upon request of a law enforcement officer.

* * * * *

- (12) Not less than ninety (90) days prior to the expiration date of the license, the Department of State Police shall mail to each licensee a written notice of the expiration and a renewal form prescribed by the Department of State Police. ***The outside of the envelope containing the license renewal notice shall bear only the name and address of the applicant. No other information relating to the applicant shall appear on the outside of the envelope sent to the applicant.*** The licensee may renew his license on or before the expiration date by filing with the sheriff of his county of residence the renewal form, a notarized affidavit stating that the licensee remains qualified pursuant to the criteria specified in subsections (2) and (3) of this section, and the required renewal fee. ***The sheriff shall issue to the applicant a receipt for the application for renewal of the license and shall date the receipt. The license then presently held by the renewal applicant together with the license renewal application receipt shall constitute a lawful and valid extension of the license until such time as the Department of State Police either revokes the existing license, refuses to renew the existing license, or issues a new license.*** The license shall be renewed to a qualified applicant upon receipt of the completed renewal application and appropriate payment of fees. When a licensee makes application for a renewal of his or her license, neither the sheriff nor the Department of State Police shall require a surrender of the license until the new license is in the office of the applicable sheriff and available for issuance. Upon the issuance of a new license, the old license shall be destroyed by the sheriff. A licensee who fails to file a renewal application on or before its expiration date may renew his license by paying, in addition to the license fees, a late fee of fifteen dollars (\$15). No license shall be renewed six (6) months or more after its expiration date, and the license

shall be deemed to be permanently expired six (6) months after its expiration date. A person whose license has permanently expired may reapply for licensure pursuant to subsections (5), (6), and (7) of this section.

* * * * *

(19) The following provisions shall apply to concealed deadly weapon training classes conducted by the Department of Criminal Justice Training or any other agency pursuant to this section:

- (a) No concealed deadly weapon instructor trainer shall have his or her certification as a concealed deadly weapon instructor trainer reduced to that of instructor or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;
- (b) No concealed deadly weapon instructor shall have his or her certification as a concealed deadly weapon instructor license suspended or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;
- (c) *The department shall not require prior notification that an applicant class or instructor class will be conducted by a certified instructor or instructor trainer,*

* * * * *

- (g) If the Department of Criminal Justice Training believes that a firearms instructor trainer or certified firearms instructor has not in fact complied with the requirements for teaching a certified firearms instructor or applicant class by not teaching the class as specified in KRS 237.126, or who has taught an insufficient class as specified in KRS 237.128, the department shall send to each person who has been listed as successfully completing the concealed deadly weapon applicant class or concealed deadly weapon instructor class a verification form on which the time, date, date of range firing if different from the date on which the class was conducted, location, and instructor of the class is listed by the department and which requires the person to answer "yes" or "no" to specific questions regarding the conduct of the training class. The form shall be completed under oath and shall be returned to the Department of Criminal Justice Training not later than *forty-five (45)* days after its receipt. *A person who fails* to complete the form, to sign the form, or to return the form to the Department of Criminal Justice Training within the time frame specified in this section or who, as a result of information on the returned form, is determined by the Department of Criminal Justice Training, following a hearing pursuant to KRS Chapter 13B, to not have received the training required by law shall *have his or her concealed deadly weapon license revoked by* the Department of State Police *if*, following a hearing conducted *by the Department of Criminal Justice Training* pursuant to KRS Chapter 13B, at which hearing the person is found to have violated the provisions of this section or who has been found not to

have received the training required by law;

2. The Kentucky State Police *shall* revoke the concealed deadly weapon license of any person who received no firearms training as required by KRS 237.126 and administrative regulations, or who received insufficient training as required by KRS 237.128 and administrative regulations, if the person voluntarily admits nonreceipt of training or admits receipt of insufficient training, or if either nonreceipt of training or receipt of insufficient training is proven following a hearing conducted *by the Department of Criminal Justice Training* pursuant to KRS Chapter 13B.

KRS 237.115 Construction of KRS 237.110 – Prohibition by local government units of carrying concealed deadly weapons in governmental buildings – Restriction on criminal penalties

- (1) *Except as provided in KRS 527.020*, nothing contained in KRS 237.110 shall be construed to limit, restrict, or prohibit in any manner the right of a college, university, or any postsecondary education facility, including technical schools and community colleges, to control the possession of deadly weapons on any property owned or controlled by them or the right of a unit of state, city, county, urban-county, or charter county government to prohibit the carrying of concealed deadly weapons by licensees in that portion of a building actually owned, leased, or occupied by that unit of government.
- (2) *Except as provided in KRS 527.020*, the legislative body of a state, city, county, or urban-county government may, by statute, administrative regulation, or ordinance, prohibit or limit the carrying of concealed deadly weapons by licensees in that portion of a building owned, leased, or controlled by that unit of government. That portion of a building in which the carrying of concealed deadly weapons is prohibited or limited shall be clearly identified by signs posted at the entrance to the restricted area. The statute or ordinance shall exempt any building used for public housing by private persons, highway rest areas, firing ranges, and private dwellings owned, leased, or controlled by that unit of government from any restriction on the carrying or possession of deadly weapons. The statute, administrative regulation, or ordinance shall not specify any criminal penalty for its violation but may specify that persons violating the statute or ordinance may be denied entrance to the building, ordered to leave the building, and if employees of the unit of government, be subject to employee disciplinary measures for violation of the provisions of the statute or ordinance. The provisions of this section shall not be deemed to be a violation of KRS 65.870 if the requirements of this section are followed. The provisions of this section shall not apply to any other unit of government.

KRS 237.138 Application of KRS 237.138 to 237.142 to retired peace officers

KRS 237.138 to 237.142 shall apply to any Kentucky elected or appointed peace officer who is honorably retired and who:

- (1) Meets the provisions of Section 3 of the federal Law Enforcement Officers Safety Act of 2004, Pub. L. No. 108-277, 18 U.S.C. sec. 926C;*
- (2) Meets the provisions of KRS 237.138 to 237.142; and*
- (3) Desires to carry a concealed deadly weapon in conformity with the provisions of the federal Law Enforcement Officers Safety Act of 2004, Pub. L. 108-277.*

KRS 237.140 Certification for retired peace officer to carry concealed deadly weapon – Requirements – Firearms instruction

- (1) (a) Certification for a retired peace officer to carry a concealed deadly weapon pursuant to KRS 237.138 to 237.142 shall be administered by the Department of State Police.*
 - (b) Costs of certification shall be paid for by moneys generated by the concealed deadly weapon license program under KRS 15.383 and collected by the Department of State Police pursuant to that section.*
 - (c) The Department of State Police shall promulgate administrative regulations in accordance with KRS Chapter 13A necessary to implement the provisions of KRS 237.138 to 237.142.*
- (2) Each retired peace officer who desires certification to carry a concealed deadly weapon shall annually submit:*
 - (a) Evidence of retired status to the Commissioner of State Police together with all information required by federal law, this section, and administrative regulations promulgated pursuant to this section;*
 - (b) Evidence of successful completion of firearms qualification required under this section; and*
 - (c) A notarized statement that he or she is not prohibited by state or federal law from possessing a firearm.*
- (3) Each law enforcement agency that employed the retired peace officer, or at which the retired peace officer served in an elected capacity, shall provide to the retired officer and the Department of State Police the information required by federal law, this section, and the administrative regulations promulgated pursuant to this section in a prompt and efficient manner, without charge either to the Department of State Police or the retiree.*
- (4) (a) Each retired peace officer shall annually fire twenty (20) rounds at an adult size silhouette target at a range of twenty-one (21) feet, with a handgun, and shall hit the target not less than eleven (11) times to obtain or maintain certification under KRS 237.138 to 237.142.*
 - (b) The rounds fired pursuant to paragraph (a) of this subsection shall*

be done under the supervision of:

- 1. A firearms instructor of the retiree's former employing agency;*
 - 2. A Department of Criminal Justice Training certified police firearms instructor or instructor trainer; or*
 - 3. A Department of Criminal Justice Training certified concealed carry instructor or instructor trainer.*
- (c) A firearms instructor may, if not compensated pursuant to paragraph (d) of this subsection, charge each participant a fee of not more than twenty dollars (\$20), which shall include the cost of the range, firearms instructor, range personnel, targets, and all other costs associated therewith, but not the cost of ammunition. Ammunition, or the cost of ammunition, shall be provided by the retiree.*
- (d) A local or state law enforcement agency that desires to conduct firearms qualification for its retirees shall schedule not less than two (2) dates for firearms qualification per year, and those dates shall be approximately six (6) months apart. The local or state law enforcement agency may charge each participant a fee of not more than twenty dollars (\$20), which shall include the cost of use of the range, firearms instructor, range personnel, targets, and all other costs associated therewith, but not the cost of ammunition. Ammunition, or the cost of ammunition, shall be provided by the retiree.*
- (e) No employer or appointing authority of a firearms instructor, Department of Criminal Justice Training certified police firearms instructor or instructor trainer, or Department of Criminal Justice Training certified concealed carry instructor or instructor trainer shall prohibit or in anyway limit the instructor from qualifying active or retired peace officers in conformity with KRS 237.138 or 237.142 while that instructor is off duty. No employer or appointing authority of an instructor specified in this paragraph shall be liable in civil damages for the actions or omissions of the instructor during qualification of active or retired peace officers when that instructor is off duty.*

KRS 237.142 Availability of range facilities for retired peace officers

- (1) The following agencies of the Commonwealth shall make range facilities available not less than four (4) days per year for firearms qualification by retired peace officers seeking certification pursuant to the provisions of KRS 237.138 to 237.142:*
- (a) The Justice Cabinet;*
 - (b) The Department of Military Affairs; and*
 - (c) The Department of Fish and Wildlife Resources.*
- (2) Firearms qualification may be conducted at any location, public or*

private, at which a handgun may be safely fired. The safety of the location at which firing takes place shall be the responsibility of the instructor conducting the qualification.

KRS 527.020 Carrying concealed deadly weapon

- (5) (a) The following persons, if they hold a license to carry a concealed deadly weapon pursuant to KRS 237.110, may carry a firearm or other concealed deadly weapon on or about their persons at all times and at all locations within the Commonwealth of Kentucky, without *any* limitation *other than as provided in this subsection*:
1. A Commonwealth's attorney or assistant Commonwealth's attorney;
 2. A county attorney or assistant county attorney;
 3. A justice or judge of the Court of Justice; and
 4. A retired or senior status justice or judge of the Court of Justice.
- (b) *The provisions of this subsection shall not authorize a person specified in this subsection to carry a concealed deadly weapon in a detention facility as defined in KRS 520.010 or on the premises of a detention facility without the permission of the warden, jailer, or other person in charge of the facility, or the permission of a person authorized by the warden, jailer, or other person in charge of the detention facility to give such permission. As used in this section, "detention facility" does not include courtrooms, facilities, or other premises used by the Court of Justice or administered by the Administrative Office of the Courts.*

- (6) (a) *Except provided in this subsection*, the following persons may carry concealed deadly weapons on or about their person at all times and at all locations within the Commonwealth of Kentucky:
1. ~~[(a)]~~ An elected sheriff and full-time and part-time deputy sheriffs certified pursuant to KRS 15.380 to 15.404 when expressly authorized to do so by the unit of government employing the officer;
 2. ~~[(b)]~~ An elected jailer and a deputy jailer who has successfully completed Department of Corrections basic training and maintains his or her current in-service training when expressly authorized to do so by the jailer; *and*
 3. ~~[(c)]~~ The department head or any employee of a corrections department in any jurisdiction where the office of elected jailer has been merged with the office of sheriff who has successfully completed Department of Corrections basic training and maintains his or her current in-service training when expressly authorized to do so by the unit of government by which he or she is employed.~~[(f)]~~
- (b) *The provisions of this subsection shall not authorize a person*

specified in this subsection to carry a concealed deadly weapon in a detention facility as defined in KRS 520.010 or on the premises of a detention facility without the permission of the warden, jailer, or other person in charge of the facility, or the permission of a person authorized by the warden, jailer, or other person in charge of the detention facility to give such permission. As used in this section, "detention facility" does not include courtrooms, facilities, or other premises used by the Court of Justice or administered by the Administrative Office of the Courts.

- (7) (a) A full-time paid peace officer of a government agency from another state or territory of the United States or an elected sheriff from another territory of the United States may carry a concealed deadly weapon in Kentucky, on or off duty, if the other state or territory accords a Kentucky full-time paid peace officer and a Kentucky elected sheriff the same rights by law. If the other state or territory limits a Kentucky full-time paid peace officer or elected sheriff to carrying a concealed deadly weapon while on duty, then that same restriction shall apply to a full-time paid peace officer or elected sheriff from that state or territory.

(b) *The provisions of this subsection shall not authorize a person specified in this subsection to carry a concealed deadly weapon in a detention facility as defined in KRS 520.010 or on the premises of a detention facility without the permission of the warden, jailer, or other person in charge of the facility, or the permission of a person authorized by the warden, jailer, or other person in charge of the detention facility to give such permission. As used in this section, "detention facility" does not include courtrooms, facilities, or other premises used by the Court of Justice or administered by the Administrative Office of the Courts.*

<u>THIRD DEGREE ASSAULT – EXTENSION TO FIREFIGHTERS AND EMS</u>
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KRS 508.025 Assault in the Third Degree

- (1) A person is guilty of assault in the third degree when the actor:
- (a) Recklessly, with a deadly weapon or dangerous instrument, or intentionally causes or attempts to cause physical injury to:

4. *Paid or volunteer emergency medical services personnel certified or licensed pursuant to KRS Chapter 311A, if the event occurs while personnel are performing job-related duties;*

5. *A paid or volunteer member of an organized fire department, if the event occurs while the member is performing job-related duties;*
6. *Paid or volunteer rescue squad personnel affiliated with the Division of Emergency Management of the Department of Military Affairs or a local disaster and emergency services organization pursuant to KRS Chapter 39F, if the event occurs while personnel are performing job-related duties;*

[Note: The changes to this statute shall be known as the "Brenda D. Cowan Act."]